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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,388	08/21/2003	Edward James Norris	03-8005	8100
7590 Leonard C. Suchyta c/o Christian Anderson Verizon Corporate Services Group Inc. 600 Hidden Ridge, HQE03H01 Irving, TX 75038			EXAMINER PATEL, CHANDRAHAS B	
			ART UNIT 2616	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/645,388

Applicant(s)

NORRIS, EDWARD JAMES

Examiner

Chandahas Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/22/2002</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 52 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A computer program product having a program code does not produce a useful result. Program code that is not executed by a processor or a computer fails to carry out the claimed subject matter therefore it does not produce a tangible, useful or concrete result.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 7, 10-14, 17-22, 24, 27-31, 34-37, 39, 42-46, 49-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Ocepek et al. (USPN 7,124,197, Herein as Ocepek).

**Regarding claim 1**, Ocepek teaches a method for detecting a wireless access device on a network [Col. 5, lines 14-15], said method comprising: receiving from the network a packet with an address [Fig. 6, Source field is an address field which is received by security device as stated in Col. 7, lines 39-40]; and indicating that the received packet corresponds to the wireless access device based on the address and on an operating system associated with the received packet [Col. 7, lines 43-47, source MAC address specifies the operating system].

**Regarding claim 2**, Ocepek teaches a method for detecting a wireless access device on a network [Col. 5, lines 14-15], said method comprising: receiving from the network a packet with an address [Fig. 6, Source field is an address field which is received by security device as stated in Col. 7, lines 39-40]; comparing the address with one or more registered addresses [Col. 8, lines 54-59]; determining an operating

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system associated with the address, when said comparing the address results in a match between the address and at least one of the registered addresses **[Col. 8, lines 59-63, source MAC address can be used to determine operating system Col. 7, lines 43-44]**; comparing the determined operating system with one or more stored operating systems, such that at least one of the stored operating systems corresponds to the wireless access device **[Col. 8, lines 63-65, MAC address is used to determine and compare operating system as discussed in Col. 7, lines 43-44, each MAC address can tell the operating system since specific manufactures are assigned particular series of MAC addresses as applicant discussed in his application]**; and indicating that the received packet corresponds to the wireless access device when the determined operating system matches at least one of the stored operating systems **[Col. 9, lines 1-5]**.

**Regarding claims 3, 20, 35**, Ocepek teaches receiving the address with information identifying a source of a packet **[Col. 8, lines 57-59]**.

**Regarding claims 4, 21, 36**, Ocepek teaches using an organizationally unique identifier as the information identifying the source **[Col. 8, lines 57-59, MAC address' first portion has organizationally unique identifier]**.

**Regarding claims 5, 22, 37**, Ocepek teaches receiving the address based on passively monitoring the network **[Col. 5, lines 22-26]**.

**Regarding claims 7, 24, 39**, Ocepek teaches determining whether a first organizationally unique identifier of the address is similar to a second organizationally

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unique identifier of at least one of the registered addresses **[Col. 8, lines 63-65, MAC address has a organizational unique identifier in its first portion]**.

**Regarding claims 10, 27, 42**, Ocepek teaches indicating the wireless access device is not authorized on the network **[Col. 8, lines 59-63, a Null value of MAC address indicates the wireless device is not authorized yet]**.

**Regarding claims 11, 28, 43**, Ocepek teaches storing the one or more registered addresses, such that the one or more registered addresses are searchable **[Fig. 11, Col. 10, lines 49-51]**.

**Regarding claims 12, 29, 44**, Ocepek teaches storing a portion of at least one of the registered addresses **[Fig. 11]**.

**Regarding claims 13, 30, 45**, Ocepek teaches using an organizationally unique identifier as the portion **[Fig. 11, IP address and MAC address has a organizational unique identifier in its first portion]**.

**Regarding claims 14, 31, 46**, Ocepek teaches storing a plurality of the organizationally unique identifiers, such that the organizationally unique identifiers are searchable **[Fig. 11, Col. 10, lines 49-51]**.

**Regarding claim 17**, Ocepek teaches indicating that the received packet corresponds to the wireless access device when the determined operating system does not match the stored operating systems **[Col. 8, lines 63-65, it identifies the device whether operating systems matches or not]**.

**Regarding claim 18**, Ocepek teaches a system for detecting a wireless access device on a network **[Abstract]**, said system comprising: means for receiving from the

network a packet with an address **[Fig. 6, Source field is an address field which is received by security device as stated in Col. 7, lines 39-40]**; means for comparing the address with one or more registered addresses **[Col. 8, lines 54-59]**; means for determining an operating system associated with the address, when said comparing the address results in a match between the address and at least one of the registered addresses **[Col. 8, lines 59-63, source MAC address can be used to determine operating system Col. 7, lines 43-44]**; means for comparing the determined operating system with one or more stored operating systems, such that at least one of the stored operating systems corresponds to the wireless access device **[Col. 8, lines 63-65, MAC address is used to determine and compare operating system as discussed in Col. 7, lines 43-44, each MAC address can tell the operating system since specific manufactures are assigned particular series of MAC addresses as applicant discussed in his application]**; and means for indicating that the received packet corresponds to the wireless access device when the determined operating system matches at least one of the stored operating systems **[Col. 9, lines 1-5]**.

**Regarding claim 19**, Ocepek teaches a system for detecting a wireless access device on a network **[Abstract]**, said system comprising: at least one memory **[Fig. 7, 102, Col. 7, lines 60-62]** comprising: code that receives from the network a packet with an address **[Fig. 6, Source field is an address field which is received by security device as stated in Col. 7, lines 39-40]**; code that compares the address with one or more registered addresses **[Col. 8, lines 54-59]**; code that determines an operating system associated with the address, when said comparing the address results in a

match between the address and at least one of the registered addresses **[Col. 8, lines 59-63, source MAC address can be used to determine operating system Col. 7, lines 43-44]**; code that compares the determined operating system with one or more stored operating systems, such that at least one of the stored operating systems corresponds to the wireless access device **[Col. 8, lines 63-65, MAC address is used to determine and compare operating system as discussed in Col. 7, lines 43-44, each MAC address can tell the operating system since specific manufactures are assigned particular series of MAC addresses as applicant discussed in his application]**; and code that indicates that the received packet corresponds to the wireless access device when the determined operating system matches at least one of the stored operating systems **[Col. 9, lines 1-5]**; and at least one data processor that executes the code **[Fig. 7, 134, Col. 8, lines 9-11]**.

Regarding claim 34, Ocepek teaches a computer program product for detecting a wireless access device on a network **[Fig. 7, 102]**, the computer program product comprising: code that receives from the network a packet with an address **[Fig. 6, Source field is an address field which is received by security device as stated in Col. 7, lines 39-40]**; code that compares the address with one or more registered addresses **[Col. 8, lines 54-59]**; code that determines an operating system associated with the address, when said comparing the address results in a match between the address and at least one of the registered addresses **[Col. 8, lines 59-63, source MAC address can be used to determine operating system Col. 7, lines 43-44]**; code that compares the determined operating system with one or more stored operating systems,



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such that at least one of the stored operating systems corresponds to the wireless access device **[Col. 8, lines 63-65, MAC address is used to determine and compare operating system as discussed in Col. 7, lines 43-44, each MAC address can tell the operating system since specific manufactures are assigned particular series of MAC addresses as applicant discussed in his application]**; and code that indicates that the received packet corresponds to the wireless access device when the determined operating system matches at least one of the stored operating systems **[Col. 9, lines 1-5]**; and at least one data processor that executes the code **[Fig. 7, 134, Col. 8, lines 9-11]**.

Regarding claim 49, Ocepek teaches a system comprising: a network **[Fig. 7, 12]**; and a processor connected to the network, wherein the processor receives one or more packets from the network, the processor **[Fig. 7, 134]** further comprising: means for determining an operating system associated with at least one of the packets **[Col. 8, 59-63, source MAC address is used to determine operating system, Col. 7, lines 43-44]** when an Organizationally Unique Identifier included in the at least one packet represents a wireless access device **[Col. 8, lines 63-65, MAC address' first portion has organizationally unique identifier]**; means for comparing the determined operating system with one or more wireless access device operating systems **[Col. 8, lines 63-65, MAC address is used to determine and compare operating system as discussed in Col. 7, lines 43-44, each MAC address can tell the operating system since specific manufactures are assigned particular series of MAC addresses as applicant discussed in his application]**; and means for indicating that the at least one

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packet corresponds to the wireless access device, when the determined operating system matches at least one of the wireless access device operating systems **[Col. 9, lines 1-5]**.

**Regarding claim 50**, Ocepek teaches a system comprising: a network **[Fig. 1, 12]**; a first processor interfaced to the network **[Fig. 1, 24, Col. 4, lines 57-60, client device has a processor since it performs the task described in above mentioned lines]**; and a second processor interfaced to the network, wherein the second processor receives one or more packets from the network and the first processor **[Fig. 7, 134, Fig. 7 is a diagram of security device 10]**, the second processor further comprising means for indicating that the first processor corresponds to a wireless access device based on an address of the first processor and on an operating system of the first processor **[Col. 7, lines 43-47, source MAC address specifies the operating system]**.

**Regarding claim 51**, Ocepek teaches a system for detecting a wireless access device on a network **[Col. 5, lines 14-15]**, said system comprising: at least one memory **[Fig. 7, 102]** comprising: code that receives from the network a packet with an address **[Fig. 6, Source field is an address field which is received by security device as stated in Col. 7, lines 39-40]**; and code that indicates that the received packet corresponds to the wireless access device based on the address and on an operating system associated with the received packet **[Col. 7, lines 43-47, source MAC address specifies the operating system]**; and at least one processor for executing the code **[Fig. 7, 134]**.

**Regarding claim 52**, Ocepek teaches a computer program product for detecting a wireless access device on a network [Fig. 7, 102], the computer program product comprising: code that receives from the network a packet with an address [Fig. 6, **Source field is an address field which is received by security device as stated in Col. 7, lines 39-40**]; and code that indicates that the received packet corresponds to the wireless access device based on the address and on an operating system associated with the received packet [Col. 7, lines 43-47, **source MAC address specifies the operating system**].

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 23, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ocepek et al. (USPN 7,124,197, Herein as Ocepek) in view of Moran (USPN 6,009,423).

**Regarding claims 6, 23, 38**, Ocepek teaches a method, a system and a computer program product as discussed in rejection of claim 2, 19, 34 respectively.

However, Ocepek does not teach comparing the address further comprises: determining whether a portion of the address is similar to a portion of at least one of the registered addresses.

Moran teaches comparing based on determination of whether a portion of the address is similar to a portion of at least one of the registered addresses **[Col. 4, lines 29-32]**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to match only a portion of the address so that only small search tables would have to be searched **[Col. 4, lines 56-67 – Col. 5, lines 1-2]**.

8. Claims 8, 25, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ocepek et al. (USPN 7,124,197, Herein as Ocepek) in view of Lausier (USPN 7,174,373).

**Regarding claims 8, 25, 40**, Ocepek teaches a method, a system and a computer program product as discussed in rejection of claim 2, 19, 34 respectively.

However, Ocepek does not teach determining the operating system at the IP address associated with the address.

Lausier teaches determining the operating system at the IP address associated with the address **[Col. 29, lines 20-25]**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine the operating system associated with the IP address so that components of IP address can be assigned to a specific server **[Col. 29, lines 43-48]**.

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9. Claims 9, 26, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ocepek et al. (USPN 7,124,197) in view of Lausier (USPN 7,174,373) as applied to claim 8 above, and further in view of Tarquini et al. (USPG-PUB 2003/0101353, Herein as Tarquini).

**Regarding claims 9, 26, 41**, the references a method, a system and a computer program product as discussed in rejection of claims 8, 25, 34 respectively.

However, the references do not teach determining the operating system using an nmap.

Tarquini teaches determining the operating system using an nmap **[Page 7-8, Paragraph 45]**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine the operating system using nmap so that it could be determined what operating system is a device running **[Page 3, Paragraph 13]**.

10. Claims 15, 16, 32, 33, 47, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ocepek et al. (USPN 7,124,197, Herein as Ocepek) in view of Jennings et al. (USPN 6,580,712, Herein as Jennings).

**Regarding claims 15, 32, 47**, Ocepek a method, a system and a computer program product as discussed in rejection of claims 14, 31, and 46 respectively.

However, Ocepek does not teach storing the plurality of the organizationally unique identifiers, such that a more frequently encountered organizationally unique

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identifier is searched before a less frequently encountered organizationally unique identifier.

Jennings teaches storing the plurality of the organizationally unique identifiers, such that a more frequently encountered organizationally unique identifier is searched before a less frequently encountered organizationally unique identifier **[Col. 5, lines 50-52, first portion of MAC address has Organizationally unique identifier]**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to store such that more frequently used identifiers are searched first to improve the performance of searching **[Col. 5, lines 47-48]**.

**Regarding claims 16, 33, 48**, Ocepek teaches a method, a system and a computer program product as discussed in rejection of claims 14, 19, 48 respectively.

However, Ocepek does not teach storing the stored operating system, such that a more frequently encountered stored operating system is searched before a less frequently encountered stored operating system.

Jennings teaches storing the stored operating system, such that a more frequently encountered stored operating system is searched before a less frequently encountered stored operating system **[Col. 5, lines 50-52, MAC address can be used to determine operating system which is well-know in the art and applicant discusses this in his specification also and by storing the MAC addresses that are accessed most, the stored operating system will be stored in a such a way also]**.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to store such that more frequently used identifiers are searched first to improve the performance of searching [Col. 5, lines 47-48].


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandrahas Patel whose telephone number is 571-270-1211. The examiner can normally be reached on Monday through Thursday 7:30 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CBP

  
RICKY Q. NGO  
SUPERVISORY PATENT EXAMINER